

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARRY McCRAY and U.S. POSTAL SERVICE,
POST OFFICE, Memphis, Tenn.

*Docket No. 96-1153; Submitted on the Record;
Issued March 3, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant has established that his federal employment caused or aggravated his back condition.

The Board has duly reviewed the case record and finds that appellant has not met his burden of proof in this case.

In the present case appellant, a letter carrier, filed a claim on June 21, 1993 alleging that he sustained an occupational injury as the performance of his duties of casing mail, standing, walking, bending and reaching aggravated his preexisting spinal stenosis. The record establishes that appellant has a congenital spinal stenosis. The record also establishes that appellant sustained previous service-connected injuries to his back and knee in 1985, which were diagnosed as chronic lumbosacral strain and chondromalacia of the right knee, and for which he has been rated for receipt of Veterans Administration disability benefits. The Office of Workers' Compensation Programs denied appellant's claim by decisions dated December 30, 1993, September 15, 1994 September 11, 1995 and January 26, 1996.

Appellant has submitted a number of medical reports to the record. The medical evidence, however, is not sufficient to establish appellant's claim as it does not provide a rationalized medical opinion causally relating the diagnosis to appellant's alleged factors of employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹

Regarding the diagnosis of appellant's condition, essentially during 1992 and early 1993 appellant had complaints of low back pain and radiation of pain into the legs. A magnetic resonance imaging (MRI) study performed on April 7, 1992 was interpreted by Dr. James B. Wood, a diagnostic radiologist, as revealing spinal stenosis at L4-5 level. In 1993 appellant developed upper back complaints. An MRI examination of the thoracic spine performed on June 2, 1993 was interpreted by Dr. Wood as a normal examination. On June 10, 1993 Dr. John Crockarell, a neurosurgeon, noted that appellant had thoracolumbar pain which currently was more in the thoracic than lumbar region, that appellant had undergone MRI examination on June 2, 1993 and computerized tomography (CT) scan on May 28, 1993, that appellant had a very mild degree of lumbar stenosis, which probably was not the basis for any of appellant's current symptomatology. On July 9, 1993 Dr. L. Smolenski, a family practitioner, noted that appellant was performing a light-duty job cutting papers and now had a left shoulder strain.

On August 8, 1993 the record was evaluated by an Office medical advise/*174r who noted that there was no secure diagnosis of appellant's condition and that essentially only chronic mechanical back pain was noted by his treating physicians. The Office medical adviser also stated that there was no medical evidence that appellant's work played any part in the causation or aggravation of appellant's symptoms.

A December 3, 1993 neurology VA progress note² indicates that appellant had back pain with spinal stenosis and that appellant "thinks his job is aggravating his back. It was also noted that appellant had shoulder and upper body stiffness which the physicians could not relate to appellants spinal stenosis. It was noted that appellant "basically wants forms to be filed out to say his job is aggravating his back." It was noted that appellant spinal stenosis did not explain all of his symptoms, however, there was no objective way to "say if appellant's job aggravate his pain." On February 7, 1994 Dr. Hal D. Bishop, a Board-certified orthopedic surgeon, diagnosed a chronic mechanical back strain syndrome, with subjective complaints and without significant objective findings, and minimal spinal stenosis. Dr. Bishop did not explain the basis of his diagnosis. Dr. Bishop did not provide a medical history to substantiate the diagnosis, nor did he provide examination findings to substantiate the diagnosis. As such his opinion is of limited probative value.

¹ *Lourdes Harris*, 45 ECAB 545 (1994).

² The physician's signature is illegible.

In a report dated August 4, 1995, Dr. James Robertson, a diagnostic radiologist, reported that on May 8, 1993 appellant was “casting” mail, reached up, twisted his body, and pulled a muscle in his upper back neck and shoulder. Dr. Robertson also noted that appellant had chronic low back pain. Dr. Robertson indicated that MRI, myelogram, CT scans and x-rays showed moderate spinal stenosis at L4, with prolonged transverse processes at C7. He stated diagnoses of moderate spinal stenosis with low back pain secondary to degenerative disc disease, probable thoracic outlet syndrome accounting for neck shoulder arm pain. Dr. Robertson concluded that appellant’s current injury exacerbated the preexisting condition to a mild degree as appellant had complaints prior to this injury.

The medical evidence of record supports a diagnosis of lumbar stenosis, with symptoms of chronic low back pain. Regarding appellant’s thoracic and shoulder pain, Dr. Robertson has indicated that objective evidence shows that appellant has a prolonged transverse process at C7. While Dr. Robertson also noted that appellant has “probable” thoracic outlet syndrome, Dr. Robertson offered no medical findings to support such a diagnosis and the diagnosis is therefore only speculative and of limited probative medical value.³

Appellant has alleged in this case that his general duties required standing, walking, bending and reaching and that such duties aggravated his preexisting spinal stenosis. While the record indicates that appellant advised his physicians of pain while entering or leaving his postal vehicle, and of upper back and shoulder pain while “cutting papers” at work in 1993, appellant has not specifically detailed such allegations to the Office as part of this claim.

Regarding the causal relationship of appellant’s conditions to his employment, appellant’s treating physician, Dr. Crockarell on October 8, 1992 noted that appellant related lumbar and bilateral lower extremity complaints which appellant had related to “emerging” from his postal delivery jeep. Dr. Crockarell, however, stated that appellant had a normal examination and that appellant seemingly had elements of symptom magnification. Appellant’s treating physician Dr. Smolenski noted on August 26, 1992 that appellant had been examined by Dr. Ryan on August 15, at his request and that Dr. Ryan’s examination found some limitation of motion of the spine and that appellant’s leg pain was “coming from the patient’s back pain.” Dr. Smolenski further stated that “this is not a work-related injury.” Appellant was examined on several occasions during 1993 by VA physicians for low back pain which appellant attributed to walking. Chronic back discomfort was noted, however, no opinion was offered on these progress notes regarding the cause of the condition. In a progress note from Dr. Smolenski dated May 13, 1993, upper back pain was noted, again no diagnosis was noted and no opinion was offered regarding the cause of this condition. Dr. Crockarell concluded that appellant had a chronic mechanic back pain, “perhaps aggravated by his work” and that it would be in appellant’s own best interest to seek a lighter form of employment. On July 2, 1993 Dr. Smolenski noted that appellant has a left trapezius muscle pain with spasm, possibly secondary to pushing, pulling and reaching required by his job.

The medical evidence of record does not contain a well rationalized medical report which explains how medically appellant’s diagnosed conditions of spinal stenosis and prolonged

³ *Johnson K. Yazzie*, 39 ECAB 701 (1988).

traverse process would have been aggravated by specific work activities. At best, the medical evidence of record, such as the opinions by Dr. Crockerall and Dr. Smolenski, speculate that “perhaps” or “possibly” appellant’s work contributed to appellant’s chronic pain complaints. The Board has held that a physician’s opinion is not dispositive simply because it is offered by a physician.⁴ To be of probative value to appellant’s claim, the physician must provide a proper factual background and must provide medical rationale which explains the medical issue at hand, be that whether the current condition is disabling or whether the current condition is causally related to the employment. Where no such rationale is present, the medical opinion is of diminished probative value.

Finally, in a report dated January 10, 1994, Dr. Bishop stated that appellant had diagnoses of chronic lumbosacral strain with spinal stenosis at L4-5 chronic, and stated that “his pain is aggravated by his work including activities such as lifting, bending, climbing, squatting stooping, pushing, and pulling.” This report of also of limited probative value because while Dr. Bishop notes appellant’s preexisting conditions, he does not explain how medically the work activities noted actually aggravated the preexisting conditions. Dr. Bishop merely indicated that appellant’s pain increased, but does not describe a worsening of the underlying conditions due to appellant’s employment.

As appellant has not submitted the necessary rationalized medical evidence which explicitly describes how the diagnosed conditions were aggravated by specific employment factors, appellant has not met his burden of proof in this case.

The decisions of the Office of Workers’ Compensation Programs dated September 11, 1995 and January 26, 1996 are hereby affirmed.

⁴ See *Michael Stockert*, 39 ECAB 1186 (1988).

Dated, Washington, D.C.
March 3, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member